

Attorney's Docket 026039-0362798

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MAR 05 2008

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT APPLICATION of:  
FREDERICK M. ENRIGHT, ET AL.

Confirmation No: 8244

Application No.: 10/617,561

Group Art Unit: 1647

Filed: July 11, 2003

Examiner: Dang, Ian D.

Title: LIGAND/LYTIC PEPTIDE COMPOSITIONS AND METHODS OF USE

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

GERTIFICATION OF FACSIMILE TRANSMISSION  
UNDER 37 C.F.R. §1.8

I hereby certify that the following papers are being facsimile transmitted  
to the Patent and Trademark Office at (571) 273-8300 on the date shown below:

- Petition for Revival of an Application for Patent Abandoned

Unintentionally under 37 §1.137(b);

- Executed Statement of Facts;
- Copy of Return Stamped Postcard dated November 7, 2007; and
- Fee Transmittal (in duplicate).

PILLSBURY WINTHROP SHAW PITTMAN LLP

  
\_\_\_\_\_  
ROBERT M. BEDGOOD  
Reg. No. 43488

Date: March 5, 2008  
12255 El Camino Real, Suite 300  
San Diego, CA 92130-4088  
Telephone: (619) 234-5000  
Facsimile: (858) 509-4010

(Certification of Facsimile Transmission—page 1)

PTO/SB/64 (10-05)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT  
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)

026039-0362798

First named inventor: Frederick M. Enright

Application No.: 10/617,561

Art Unit: 1647

Filed: 07/11/2003

Examiner: Dang, Ian D.

Title: LIGAND/LYTIC PEPTIDE COMPOSITIONS AND METHODS OF USE

**RECEIVED  
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Attention: Office of Petitions  
**Mail Stop Petition**  
 Commissioner for Patents  
 P.O. Box 1450  
 Alexandria, VA 22313-1450  
 FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

**1. Petition fee**

☒ Small entity-fee \$ 770.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity - fee \$ \_\_\_\_\_ (37 CFR 1.17(m))

**2. Reply and/or fee**

A. The reply and/or fee to the above-noted Office action in the form of \_\_\_\_\_ (identify type of reply):

☒ has been filed previously on November 5, 2007  
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ \_\_\_\_\_

☐ has been paid previously on 03/06/2008 VBUI11 00000054 033975 10617561  
☐ is enclosed herewith.

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770.00 DA

(Page 1 of 2)

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

MAR 05 2008

PTO/SB/64 (10-05)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

## 3. Terminal disclaimer with disclaimer fee

☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ 65.00 for a small entity or \$ 130.00 for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

## WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

  
Signature

March 5, 2008

Date

Robert M. Bedgood

Typed or printed name

43488

Registration Number, if applicable

PILLSBURY WINTHROP SHAW PITTMAN LLP

Address

12255 El Camino Real, Suite 300,  
San Diego, CA 92130-4088 US

858-509.4065

Telephone Number

Address

Enclosures: ☒ Fee Payment☐ Reply☐ Terminal Disclaimer Form☐ Additional sheets containing statements establishing unintentional delay☒ Other: Statement of Facts; Copy of Return-stamped Postcard dated 11/7/07

## CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.☒ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (571) 273-8300:  
March 5, 2008

Date

  
Signature

Robert M. Bedgood

Typed or printed name of person signing certificate

[Page 2 of 2]

PATENT  
ATTORNEY DOCKET NO. 026039-0362798

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Applicant : Frederick M. Enright, et al. Art Unit : 1644  
Serial No. : 10/617,561 Examiner : Dang, Ian D.  
Filed : 07/11/2003  
Title : LYGAND/LYTIC PEPTIDE COMPOSITIONS AND METHODS OF USE

MAR 05 2008

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

STATEMENT OF FACTS

Dear Sirs:

I, Patricia Munoz, do hereby declare and state that:

On November 5, 2007, I timely filed by U.S. mail with the U.S. Patent and Trademark Office a Response to Office Action along with a Petition for Extension of Time. However, a Certificate of Mailing under 37 C.F.R. §1.10 was inadvertently omitted from the Response. Accordingly, the Patent Office received the Response on November 7, 2007, after the November 5, 2007 due date, and the application was unintentionally abandoned. Attached is a copy of the date-stamped Return Postcard marked received by the Patent Office on November 7, 2007.

I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true.

Date:

3/5/08

  
Patricia Munoz

03-05-08

01:11pm

From-PILLSBURY WINTHROP SHAW PITTMAN LLP

8585094010

T-323

P.005/007

F-685

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PTO RECEIPT Attorney Docket: 026039-0362798

Arty: Robert Bedgood/pm

Appl. No: 10/617,561 Date: November 5, 2007

Inventor(s): FREDERICK M. ENRIGHT ET AL.

Title: LIGAND/LYTIC PEPTIDE COMPOSITIONS AND METHODS OF  
USE

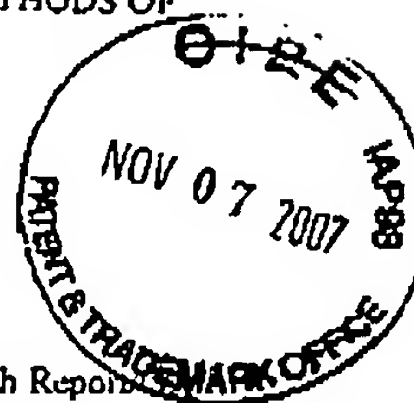
Small Entry:

☒ Petition for Extension of Time (in duplicate)☒ Response to Office Action☐ No. of Priority Documents☐ No. of Sheets of Drawings (Fig(s) )☐ IDS ☐ Appendix for Cited Appl(s) ☐ Foreign Search Report☐ PTO-1449 ☐ Cited Documents ☐ Nonpublication Request

\$ 525.00 Total Fee Charged to Deposit Account 033975

Other: Return Postcard Receipt

CURRENT DUE DATE: November 5, 2007



PTO/SB/17 (10-07)

Approved for use through 06/30/2010. OMB 0651-0032

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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Effective on 12/09/2004.

Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

**FEE TRANSMITTAL**  
**For FY 2008**☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 770.00

**Complete if Known**

Application Number	10/617,561
Filing Date	July 11, 2003
First Named Inventor	Frederick M. Enright
Examiner Name	Dang, Ian D.
Art Unit	1647
Attorney Docket No.	026039-0362798

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MAR 05 2008

**METHOD OF PAYMENT (check all that apply)**☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): \_\_\_\_\_☒ Deposit Account Deposit Account Number: 03-3975 Deposit Account Name: \_\_\_\_\_

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below☒ Charge fee(s) indicated below, except for the filing fee☐ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17☐ Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

**FEE CALCULATION****1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	310	155	510	255	210	105	
Design	210	105	100	50	130	65	
Plant	210	105	310	155	160	80	
Reissue	310	155	510	255	620	310	
Provisional	210	105	0	0	0	0	

**2. EXCESS CLAIM FEES****Fee Description**

Each claim over 20 (including Reissues)

Each independent claim over 3 (including Reissues)

Multiple dependent claims

Fee (\$)	Small Entity Fee (\$)
50	25
210	105
370	185

<b>Total Claims</b>	<b>Extra Claims</b>	<b>Fee (\$)</b>	<b>Fee Paid (\$)</b>
- 20 or HP =	x	=	

HP = highest number of total claims paid for, if greater than 20.

<b>Indep. Claims</b>	<b>Extra Claims</b>	<b>Fee (\$)</b>	<b>Fee Paid (\$)</b>
- 3 or HP =	x	=	

HP = highest number of independent claims paid for, if greater than 3.

**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(c)), the application size fee due is \$260 (\$130 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

<b>Total Sheets</b>	<b>Extra Sheets</b>	<b>Number of each additional 50 or fraction thereof</b>	<b>Fee (\$)</b>	<b>Fee Paid (\$)</b>
- 100 =	/ 50 =	(round up to a whole number) x	=	

**4. OTHER FEE(S)**

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): Petition For Revival Fee

Fees Paid (\$)

770.00

**SUBMITTED BY**

Signature

Registration No.  
(Attorney/Agent) 43488

Telephone 858-509-4065

Name (Print/Type) Robert M. Bedgood

Date March 5, 2008

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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